

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Mark Acton, Vice Chairman;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Priority Mail Contract 41 (MC2012-39)  
Negotiated Service Agreements

Docket No. CP2012-47

ORDER GRANTING IN PART MOTION FOR TEMPORARY RELIEF

(Issued August 10, 2017)

The negotiated service agreement approved in this proceeding (Existing Agreement) is set to expire August 20, 2017.<sup>1</sup> On August 9, 2017, the Postal Service filed a motion for temporary relief seeking to extend the expiration date of the Existing Agreement until a successor agreement has taken effect.<sup>2</sup> The Postal Service also filed

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<sup>1</sup> See Docket Nos. MC2012-39 and CP2012-47, Order No. 1445, Order Adding Priority Mail Contract 41 to the Competitive Product List, August 20, 2012, at 4 (setting effective date to August 20, 2012, with a term of 3 years); Order No. 2423, Order Approving Amendment to Priority Mail Contract 41 Negotiated Service Agreement, April 1, 2015, at 3-4 (amending the term of the contract to 5 years). See *also* Order No. 3037, Order Approving Amendment to Priority Mail Negotiated Service Agreement, January 20, 2016 (amending pricing terms).

<sup>2</sup> Motion of the United States Postal Service for Temporary Relief, August 9, 2017, at 2 (Motion).

a successor agreement on August 9, 2017, with an intended effective date two business days after the Commission issues all necessary regulatory approval.<sup>3</sup>

The Postal Service states that it and the customer have been working cooperatively on a successor agreement over the past several months, but it was not able to file that agreement more than 15 days prior to the expiration of the Existing Agreement<sup>4</sup> because the customer needed additional time to review the terms contained in a new appendix that was not present in the Existing Agreement. Motion at 1. Additionally, the Postal Service states that its own internal financial review process took longer than expected. *Id.* at 1-2. In consideration of the customer's business continuity, the Postal Service seeks a brief extension to allow the Existing Agreement to remain in effect during the review of the successor agreement. *See id.* at 2.

The contemporaneous filing of the successor agreement supports the Postal Service's representations concerning good faith efforts to comply with the timetable established in Order No. 85. However, the Commission has previously explained why contract extensions conditioned only on the approval of a successor agreement do not adequately address the possibility that approval of the successor agreement may be delayed or denied.<sup>5</sup> The Commission finds it preferable to modify the terms of the requested extension by allowing the Existing Agreement to continue until the successor agreement is approved and takes effect, or until September 20, 2017, whichever occurs first. Under either eventuality, this brief extension will not impair the ability of the Existing Agreement to comply with 39 U.S.C. § 3633, will avoid disruption in contract administration, and will not prejudice any person. Consequently, the Existing Agreement is modified to continue on the revised terms established in this Order.

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<sup>3</sup> See Motion at 1. *See also* Docket Nos. MC2017-169 and CP2017-262, Request of the United States Postal Service to Add Priority Mail Contract 340 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, August 9, 2017.

<sup>4</sup> With respect to the filing requirement, *see* 39 C.F.R. § 3015.5 and Docket Nos. CP2008-8, CP2008-9, and CP2008-10, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008, at 10 (Order No. 85).

<sup>5</sup> Docket No. CP2015-85, Order No. 3393, Order Granting in Part Motion for Temporary Relief, June 28, 2016, at 2.

The Commission directs the Postal Service to promptly file notice of the effective date of the successor agreement in this docket. Similarly, the Postal Service shall also promptly file notice with the Commission if the Existing Agreement is terminated prior to the revised terms of expiration established in this Order.

*It is ordered:*

1. The Motion of the United States Postal Service for Temporary Relief, filed August 9, 2017, is granted in part.
2. The Commission approves an extension of the Existing Agreement from August 20, 2017 until the effective date of the successor agreement or September 20, 2017, whichever occurs earlier.
3. The Mail Classification Schedule will continue to list the Existing Agreement according to the terms set forth in this Order.
4. The Postal Service shall promptly file notice of the effective date of the successor agreement in this docket.
5. The Postal Service shall promptly file notice of the termination of the Existing Agreement if such termination occurs prior to the date of either of the alternatives described in the body of this Order.

By the Commission.

Stacy L. Ruble  
Secretary